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Security Council

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Letter dated 25 October 2018 from the Secretary-General addressed to the President of the Security Council

I have the honour to draw your attention to Security Council resolution 1966 (2010) of 22 December 2010, by which the Council established the International Residual Mechanism for Criminal Tribunals, and to the statute of the Mechanism annexed thereto.

Article 8 of the statute provides that the Mechanism shall have a roster of 25 independent judges, not more than 2 of whom may be nationals of the same State. The judges shall only be present at the seats of the branches of the Mechanism as necessary at the request of the President to exercise the functions requiring their presence and shall not receive any remuneration or other benefits for being on the roster. The terms and conditions of service of the judges for each day on which they exercise their functions for the Mechanism shall be those of the judges ad hoc of the International Court of Justice.

In a letter dated 22 June 2018 (S/2018/626), I informed the President of the Security Council that I intended to reappoint 23 out of the 25 judges of the Mechanism. In a letter dated 26 June 2018 (S/2018/627), the President of the Security Council informed me that the members of the Council had taken note of my intention. In a letter dated 29 June 2018 (S/2018/652), I informed the President of the Security Council that I was proceeding with the reappointment of 23 out of the 25 judges of the Mechanism. In a letter dated 2 August 2018 (S/2018/756), the President of the Security Council informed me that, having carefully analysed the current situation, the members of the Council reasonably expected that filling the two vacant positions would assist in the effective and timely implementation of the mandate of the Mechanism in accordance with resolution 1966 (2010) and that they had decided that two judges should be elected to the roster of judges of the Mechanism in accordance with article 10 of the statute. The Council also decided that, from the nominations received, the Council would establish a list of not less than three candidates, or, should there be only two nominations, a list of two candidates, taking due account of the qualifications set out in article 9, paragraph 1, of the statute and adequate representation of the principal legal systems of the world, as well as the nationalities of the current judges of the Mechanism.

Article 10, paragraph 1, of the statute provides that the judges of the Mechanism shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges, preferably from among persons with experience as judges of the International Tribunal for

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> the Former Yugoslavia or the International Criminal Tribunal for Rwanda, from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;
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> (b) Within 60 days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 9, paragraph 1, of the statute;
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> (c) The Secretary-General shall forward the nominations received to the Security Council ...;
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> (d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly ... The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should more than two candidates of the same nationality obtain the required majority vote, the two who received the highest number of votes shall be considered elected.

In the letter dated 2 August 2018, the President requested me to invite States to submit nominations within a period of 60 days. Pursuant to article 10, paragraph 1 (a), of the statute, the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel sent a letter on my behalf on 16 August 2018 to Member States and non-member States maintaining permanent observer missions, inviting nominations of up to two candidates within 60 days of the invitation. By the deadline, eight candidates had been nominated by seven Member States.

In accordance with article 10, paragraph 1 (c), of the statute, I have the honour to forward for the consideration of the Security Council the eight nominations that were received. The list of candidates, in alphabetical order, together with the curricula vitae, has been provided to me in connection with their nominations.* In this regard, I would like to draw the attention of the Council to article 9 of the statute, which provides the following:

> 1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. Particular account shall be taken of experience as judges of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda.
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> 2. In the composition of the Trial and Appeals Chambers, due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

In accordance with the letter dated 2 August 2018 from the President of the Security Council, the term of office of the two elected judges will terminate at the same time as the term of office of the judges who are currently on the roster. Pursuant to article 10, paragraph 3, of the statute, the judges shall be eligible for reappointment by the Secretary-General after consultation with the Presidents of the Security Council and of the General Assembly.

I would be grateful if you could bring the present letter to the attention of the members of the Security Council.

(*Signed*) António **Guterres**

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* The information is on file with the Secretariat and is available for consultation.